

173-400 GENERAL REGULATIONS FOR AIR POLLUTION SOURCES

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-400-080	Compliance schedules. [Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-080, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-080, filed 5/8/79; Order DE 76-38, §173-400-080, filed 12/21/76. Formerly WAC 18-04-080.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-090	Sensitive area designation. [Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-090, filed 8/20/80; Order DE 76-38, §173-400-090, filed 12/21/76. Formerly WAC 18-04-090.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-130	Regulatory actions. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-130, filed 5/8/79; Order DE 76-38, §173-400-130, filed 12/21/76. Formerly WAC 18-04-130.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-135	Criminal penalties. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-135, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-140	Appeals. [Order DE 76-38, §173-400-140, filed 12/21/76. Formerly WAC 18-04-140.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

173-400-150	Variance. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-150, filed 5/8/79; Order DE 76-38, §173-400-150, filed 12/21/76. Formerly WAC 18-04-150.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-160	Maintenance of pay. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-160, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-170	Requirements for boards and director. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-170, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

173-400-010 POLICY AND PURPOSE.

- (1) It is the policy of the department of ecology (ecology) under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and for the proper development of the state's natural resources.
- (2) It is the purpose of this chapter to establish technically feasible and reasonably attainable standards and to establish rules generally applicable to the control and/or prevention of the emission of air contaminants.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-010, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-010, filed 4/15/83; Order DE 76-38, §173-400-010, filed 12/21/76. Formerly WAC 18-04-010.]

173-400-020 APPLICABILITY.

- (1) The provisions of this chapter shall apply state-wide.
- (2) An authority may enforce this chapter and may also adopt standards or requirements. These standards or requirements may not be less stringent than the current state air quality rules and may be more stringent than the current regulations. Unless properly delegated by ecology, authorities do not have jurisdiction over the following sources:
 - (a) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.
 - (b) Automobiles, trucks, aircraft.
 - (c) Those sources under the jurisdiction of the energy facility site evaluation council.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-020, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-020, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-020, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-020, filed 5/8/79; Order DE 76-38, §173-400-020, filed 12/21/76. Formerly WAC 18-04-020.]

173-400-030 DEFINITIONS.

Except as provided elsewhere in this chapter, the following definitions apply throughout the chapter:

- (1) "Actual emissions" means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.
 - (a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. Ecology or an authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
 - (b) Ecology or an authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.
 - (c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.
- (2) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.
- (3) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."
- (4) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.
- (5) "Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the stationary source (unless the stationary source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:
 - (a) The applicable standards as set forth in 40 CFR Part 60 or 61;

- (b) Any applicable state implementation plan emissions limitation including those with a future compliance date; or
 - (c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.
- (6) "Ambient air" means the surrounding outside air.
 - (7) "Ambient air quality standard" means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.
 - (8) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.
 - (9) "Best available control technology (BACT)" means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61, as they exist on March 1, 1996, or their later enactments as adopted by reference by the director by rule. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.
 - (10) "Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.
 - (11) "Bubble" means a set of emission limits which allows an increase in emissions from a given emissions unit(s) in exchange for a decrease in emissions from another emissions unit(s), pursuant to RCW 70.94.155 and WAC 173-400-120.

- (12) "Capacity factor" means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.
- (13) "Class I area" means any area designated pursuant to §§162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:
 - Alpine Lakes Wilderness;
 - Glacier Peak Wilderness;
 - Goat Rocks Wilderness;
 - Mount Adams Wilderness;
 - Mount Rainier National Park;
 - North Cascades National Park;
 - Olympic National Park;
 - Pasayten Wilderness;
 - Spokane Indian Reservation.
- (14) "Combustion and incineration sources" means units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.
- (15) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:
 - (a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
 - (b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
- (16) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.
- (17) "Director" means director of the Washington state department of ecology or duly authorized representative.
- (18) "Dispersion technique" means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.
- (19) "Ecology" means the Washington state department of ecology.
- (20) "Emission" means a release of air contaminants into the ambient air.
- (21) "Emission reduction credit (ERC)" means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

- (22) "Emission standard" and "emission limitation" means a requirement established under the FCAA or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment work practice, or operational standard promulgated under the FCAA or chapter 70.94 RCW.
- (23) "Emissions unit" means any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA, chapter 70.94 or 70.98 RCW.
- (24) "Excess emissions" means emissions of an air pollutant in excess of any applicable emission standard.
- (25) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-400-200(2).
- (26) "Existing stationary facility" means a stationary source of air pollutants which has the potential to emit two hundred fifty tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. For purposes of determining whether a stationary source is an existing stationary facility the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.
- (27) "Federal Clean Air Act (FCAA)" means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.
- (28) "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.
- (29) "Fossil fuel-fired steam generator" means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.
- (30) "Fugitive dust" means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.
- (31) "Fugitive emissions" means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- (32) "General process unit" means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

- (33) "Good engineering practice (GEP)" refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).
- (34) "Incinerator" means a furnace used primarily for the thermal destruction of waste.
- (35) "In operation" means engaged in activity related to the primary design function of the source.
- (36) "Integral vista" means a view perceived from within a mandatory Class I federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I federal area.
- (37) "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects the more stringent of:
 - (a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or
 - (b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

- (38) "Mandatory Class I federal area" means any area defined in Section 162(a) of the FCAA. The mandatory Class I federal areas in Washington state are as follows:
 - Alpine Lakes Wilderness;
 - Glacier Peak Wilderness;
 - Goat Rocks Wilderness;
 - Mount Adams Wilderness;
 - Mount Rainier National Park;
 - North Cascades National Park;
 - Olympic National Park;
 - Pasayten Wilderness.
- (39) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the FCAA. Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone. A physical change or change in the method of operation shall not include:
 - (a) Routine maintenance, repair, and replacement;
 - (b) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974

(or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

- (c) Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425;
 - (d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
 - (e) Use of an alternative fuel or raw material by a stationary source which:
 - (i) The stationary source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, in a prevention of significant deterioration permit or notice of construction approval; or
 - (ii) The stationary source is approved to use under any federally-enforceable notice of construction approval or a PSD permit issued by the environmental protection agency;
 - (f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, in a prevention of significant deterioration permit or a notice of construction approval;
 - (g) Any change in ownership at a stationary source.
- (40) "Major stationary source" means:
- (a) Any stationary source which:
 - (i) Emits or has the potential to emit one hundred tons per year or more of any air contaminant regulated by the state or Federal Clean Air Acts; or
 - (ii) Is located in a "marginal" or "moderate" ozone nonattainment area and which emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen.
 - (b) Any stationary source (or group of stationary sources) which:
 - (i) Is located in a "serious" carbon monoxide nonattainment area where stationary sources contribute significantly to carbon monoxide levels and which emits or has the potential to emit fifty tons per year or more of carbon monoxide; or
 - (ii) Is located in a "serious" particulate matter (PM10) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM10 emissions.

- (c) Any physical change that would occur at a stationary source not qualifying under (a) or (b) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself;
- (d) A major stationary source that is major for VOCs or NO_x shall be considered major for ozone;
- (e) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the stationary source belongs to one of the following categories of stationary sources or the source is a major stationary source due to (b) of this subsection:
 - (i) Coal cleaning plants (with thermal dryers);
 - (ii) Kraft pulp mills;
 - (iii) Portland cements plants;
 - (iv) Primary zinc smelters;
 - (v) Iron and steel mills;
 - (vi) Primary aluminum ore reduction plants;
 - (vii) Primary copper smelters;
 - (viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
 - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
 - (x) Petroleum refineries;
 - (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
 - (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);
 - (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants;

- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil fuel-fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; and
 - (xxvii) Any other stationary source category which, as of August 7, 1980, was being regulated under sections 111 or 112 of the Federal Clean Air Act.
- (f) For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.
- (41) "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.
- (42) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.
- (43) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definitions of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.
- (44) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Parts 61 and 63.
- (45) "Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.
- (46) "Net emissions increase" means:
- (a) The amount by which the sum of the following exceeds zero:

- (i) Any increase in actual emissions from a particular change or change in method of operation at a source; and
 - (ii) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
- (b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date ten years before construction on the particular change commences and the date that the increase from the particular change occurs.
- (c) An increase or decrease in actual emissions is creditable only if:
 - (i) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit, in which case the credit shall expire ten years after the date of original issue of the ERC. Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.
 - (ii) Ecology or the authority has not relied on it in issuing any permit or order of approval for the source under regulations approved pursuant to 40 CFR 51 Subpart I or the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, which order or permit is in effect when the increase in actual emissions from the particular change occurs.
- (d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- (e) A decrease in actual emissions is creditable only to the extent that:
 - (i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
 - (ii) It is federally enforceable at and after the time that actual construction on the particular change begins;
 - (iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
 - (iv) Ecology or the authority has not relied on it in issuing any permit or order of approval under regulations approved pursuant to 40 CFR 51 Subpart I, the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, or ecology or the authority has not relied on it in demonstrating attainment or reasonable further progress.
- (f) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to

emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

- (47) "New source" means:
- (a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and
 - (b) Any other project that constitutes a new source under the Federal Clean Air Act.
- (48) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.
- (49) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.
- (50) "Notice of construction application" means a written application to permit construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.
- (51) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.
- (52) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.
- (53) "Order" means any order issued by ecology or a local air authority pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.
- (54) "Order of approval" or "approval order" means a regulatory order issued by ecology or the authority to approve the notice of construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.
- (55) "Particulate matter" or "particulates" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.
- (56) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

- (57) "Parts per million (ppm)" means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.
- (58) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.
- (59) "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.
- (60) "PM-10 emissions" means finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the Washington state implementation plan.
- (61) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.
- (62) "Prevention of significant deterioration (PSD)" means the program set forth in WAC 173-400-141.
- (63) "Projected width" means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.
- (64) "Reasonably attributable" means attributable by visual observation or any other technique the state deems appropriate.
- (65) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.
- (66) "Regulatory order" means an order issued by ecology or an authority to an air contaminant source which applies to that source, any applicable provision of chapter 70.94 RCW, or

the rules adopted thereunder, or, for sources regulated by a local air authority, the regulations of that authority.

- (67) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year
Carbon monoxide.....	100
Nitrogen oxides.....	40
Sulfur dioxide.....	40
Particulate matter (PM).....	25
Fine particulate matter (PM10).....	15
Volatile organic compounds (VOC)	40
Lead.....	0.6
Fluorides.....	3
Sulfuric acid mist.....	7
Hydrogen sulfide (H ₂ S).....	10
Total reduced sulfur (including H ₂ S).....	10
Municipal waste combustor organics	0.0000035
(measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans	
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO ₂ and hydrogen chloride).....	40

- (68) "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.
- (69) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.
- (70) "Source category" means all sources of the same type or classification.

- (71) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.
- (72) "Stack height" means the height of an emission point measured from the ground-level elevation at the base of the stack.
- (73) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury.
- (74) "Stationary source" means any building, structure, facility, or installation which emits or may emit any contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216 of the FCAA.
- (75) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.
- (76) "Synthetic minor" means any source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or permit condition.
- (77) "Total reduced sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 or an approved equivalent method and expressed as hydrogen sulfide.
- (78) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on October 17, 1996.
- (79) "Toxic air pollutant (TAP)" or "toxic air contaminant" means any Class A or B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.
- (80) "United States Environmental Protection Agency (USEPA)" shall be referred to as EPA.
- (81) "Visibility impairment" means any perceptible degradation in visibility (visual range, contrast, coloration) not caused by natural conditions.
- (82) "Visibility impairment of Class I areas" means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.
- (83) "Volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes:
 - (a) Any such organic compound other than the following, which has been determined to have negligible photochemical reactivity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro

1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetones perchloroethylene (tetrachloroethylene); and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear completely fluorinated alkanes;
 - (ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; and
 - (iii) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- (b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by ecology or the authority.
- (c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, ecology or the authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology or the authority, the amount of negligibly-reactive compounds in the source's emissions.

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), §173-400-030, filed 9/13/96, effective 10/14/96; 95-07-126 (Order 93-40), §173-400-030, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), §173-400-030, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-030, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), §173-400-030, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-030, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-030, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-030, filed 5/8/79; Order DE 76-38, §173-400-030, filed 12/21/76. Formerly WAC 18-04-030.]

173-400-040 GENERAL STANDARDS FOR MAXIMUM EMISSIONS.

All sources and emissions units are required to meet the emission standards of this chapter. Where an emission standard listed in another chapter is applicable to a specific emissions unit, such standard will take precedent over a general emission standard listed in this chapter. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of any chapter of Title 173 WAC. Where current controls are determined to be less than RACT, ecology or the authority shall, as provided in section 8, chapter 252, Laws of 1993, define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

- (1) Visible emissions. No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:
 - (a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ecology or the authority be advised of the schedule.
 - (b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.
 - (c) When two or more sources are connected to a common stack, ecology or the authority may allow or require the use of an alternate time period if it is more representative of normal operations.
 - (d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).
- (2) Fallout. No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner(s) or operator(s) of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.
- (3) Fugitive emissions. The owner or operator of any emissions unit engaging in materials handling, construction, demolition or any other operation which is a source of fugitive emission:

- (a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.
 - (b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the contaminants for which nonattainment has been designated.
- (4) Odors. Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.
- (5) Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.
- (6) Sulfur dioxide.

No person shall cause or permit the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except:

When the owner or operator of an emissions unit supplies emission data and can demonstrate to ecology or the authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, ecology or the authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results will be made available upon request and a monthly summary will be submitted to ecology or the authority.
- (7) Concealment and masking. No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.
- (8) Fugitive dust sources.
 - (a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.
 - (b) The owner(s) or operator(s) of any existing source(s) of fugitive dust that has been identified as a significant contributor to a PM-10 nonattainment area shall be

required to use reasonably available control technology to control emissions.
Significance will be determined by the criteria found in WAC 173-400-113(3).

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-040, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-040, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-040, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-040, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-040, filed 5/8/79; Order DE 76-38, §173-400-040, filed 12/21/76. Formerly WAC 18-04-040.]

173-400-045 CONTROL TECHNOLOGY FEES.

- (1) General. Ecology may assess and collect a fee as authorized in RCW 70.94.154 and described in subsections (2) through (5) of this section.
- (2) Fee schedule for source-specific determinations where RACT analysis and determination are performed by ecology.
 - (a) Basic RACT analysis and determination fee:
 - (i) Low complexity (the analysis addresses one type of emission unit) - one thousand five hundred dollars;
 - (ii) Moderate complexity (the analysis addresses two to five types of emissions units) - seven thousand five hundred dollars;
 - (iii) High complexity (the analysis addresses more than five types of emission units) - fifteen thousand dollars.
 - (b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - two thousand dollars.
 - (c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:
 - (i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant - one thousand dollars; or
 - (ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate,

emit more than ten tons per year of any toxic air pollutant - two thousand dollars.

- (3) Fee schedule for source-specific determinations where RACT analysis is performed by the source and review and determination conducted by ecology.
 - (a) Basic RACT review and determination fees:
 - (i) Low complexity (the analysis addresses one type of emission unit) - one thousand dollars;
 - (ii) Moderate complexity (the analysis addresses two to five types of emissions units) - five thousand dollars;
 - (iii) High complexity (the analysis addresses more than five types of emission units) - ten thousand dollars.
 - (b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - one thousand dollars.
 - (c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:
 - (i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant - five hundred dollars; or
 - (ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - one thousand dollars.
- (4) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.
 - (a) Notice of construction application. Review and approval of notice of construction application (NOCA) for replacement or substantial alteration of control technology - three hundred fifty dollars.
 - (b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - five hundred dollars.
- (5) Fee schedule for categorical RACT determinations. Fees for categorical RACT determinations (for categories with more than three sources) shall be assessed as shown below. The fees described in (a) of this subsection shall be based on the most complex

source within a category. Except as provided in (b) and (d) of this subsection, fees for individual sources in the category will be determined by dividing the total source category fee by the number of sources within the category.

- (a) RACT analysis and determination (RACT analysis performed by ecology with assistance from sources):
 - (i) Low complexity source category (average source emissions of individual criteria pollutants are all less than twenty tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit) - twenty-five thousand dollars;
 - (ii) Moderate complexity source category (average source emissions of one or more individual criteria pollutants are greater than twenty tons/year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten tons per year, or the analysis addresses two to five types of emissions units) - fifty thousand dollars; or
 - (iii) High complexity source category (average source emissions of one or more individual criteria pollutants exceed one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units) - one hundred thousand dollars.
- (b) If an emission unit is being evaluated for more than one categorical RACT determination within a five-year period, ecology will charge the owner or operator of that emission unit one fee and the fee will reflect the higher complexity categorical RACT determination.
- (c) Ecology may adjust the fee to reflect workload savings from source involvement in source category RACT determination.
- (d) Ecology may approve alternate methods for allocating the fee among sources within the source category.
- (6) Small business fee reduction. The RACT analysis and determination fee identified in subsections (2) through (5) of this section may be reduced for a small business.
 - (a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW 43.31.025.
 - (b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:
 - (i) By an authorized corporate officer in the case of a corporation;

- (ii) By an authorized partner in the case of a limited or general partnership; or
 - (iii) By the proprietor in the case of a sole proprietorship.
- (c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.
- (d) For small businesses determined to be eligible under (a) of this subsection, the RACT analysis and determination fee shall be reduced to the greater of:
 - (i) Fifty percent of the RACT analysis and determination fee; or
 - (ii) Two hundred fifty dollars.
- (e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and average annual profits. In no case will a RACT analysis and determination fee be reduced below one hundred dollars.
- (7) Fee reductions for pollution prevention initiatives. Ecology may reduce RACT analysis and determination fees for an individual source if that source is using approved pollution prevention measures.
- (8) Fee payments. Fees specified in subsection (4)(a) of this section shall be paid at the time a notice of construction applications is submitted to the department. Other fees specified in subsections (2) through (7) of this section shall be paid no later than thirty days after receipt of an ecology billing statement. For fees specified in subsection (5) of this section, a billing for one-half of the payment from each source will be mailed when the source category rule-making effort is commenced as noted by publication of the CR101 form in the *Washington State Register*. A billing for the second half of the payment will be mailed when the proposed rule is published in the *Washington State Register*. No order of approval or other action approving or identifying a source to be at RACT will be issued by the department until all fees have been paid by the source. All fees collected under this regulation shall be made payable to the Washington department of ecology.
- (9) Dedicated account. All control technology fees collected by the department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All control technology fees collected by the department from nonpermit program sources shall be deposited in the air pollution control account.

- (10) Tracking revenues, time, and expenditures. Ecology shall track revenues on a source-specific basis. For purposes of source-specific determinations under subsections (2) through (4) of this section, Ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (5) of this section, ecology shall track time and expenditures on a source-category basis.
- (11) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), §173-400-045, filed 9/13/96, effective 10/14/96. Statutory Authority: RCW 70.94.153 and 70.94.154. 94-17-070, §173-400-045, filed 8/15/94, effective 9/15/94.]

173-400-050 EMISSION STANDARDS FOR COMBUSTION AND INCINERATION UNITS.

- (1) Combustion and incineration emissions units must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or permit emissions of particulate matter in excess of 0.23 gram per dry cubic meter at standard conditions (0.1 grain/dscf), except, for an emissions unit combusting wood derived fuels for the production of steam. No person shall allow or permit the emission of particulate matter in excess of 0.46 gram per dry cubic meter at standard conditions (0.2 grain/dscf), as measured by EPA method 5 or approved procedures contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology.
- (2) For any incinerator, no person shall cause or permit emissions in excess of one hundred ppm of total carbonyls as measured by applicable EPA methods or acceptable procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, on file at ecology. Incinerators shall be operated only during daylight hours unless written permission to operate at other times is received from ecology or the authority.
- (3) Measured concentrations for combustion and incineration sources shall be adjusted for volumes corrected to seven percent oxygen, except when ecology or the authority determines that an alternate oxygen correction factor is more representative of normal operations.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-050, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-050, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-050, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-050, filed 5/8/79; Order DE 76-38, §173-400-050, filed 12/21/76. Formerly WAC 18-04-050.]

173-400-060 EMISSION STANDARDS FOR GENERAL PROCESS UNITS.

General process units are required to meet all applicable provisions of WAC 173-400-040 and, no person shall cause or permit the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods from 40 CFR Appendix A which are adopted by reference and any other approved test procedures which are contained in ecology's *"Source Test Manual - Procedures For Compliance Testing"* as of July 12, 1990, will be used to determine compliance.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-060, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-060, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-060, filed 8/20/80; Order DE 76-38, §173-400-060, filed 12/21/76. Formerly WAC 18-04-060.]

173-400-070 EMISSION STANDARDS FOR CERTAIN SOURCE CATEGORIES.

Ecology finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the maximum allowable standards for emissions units within the categories listed. Except as specifically provided in this section, such emissions units shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

(1) Wigwam burners.

- (a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7).
- (b) All wigwam burners shall use RACT. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by ecology or the authority.
- (c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.
- (d) Ecology may establish additional requirements for wigwam burners located in sensitive areas as defined by chapter 173-440 WAC. These requirements may include but shall not be limited to:
 - (i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance if they meet the requirements contained in WAC 173-400-040(1). An exception is made for a startup period not to exceed thirty minutes in any eight consecutive hours.

- (ii) A requirement to apply BACT.
 - (iii) A requirement to reduce or eliminate emissions if ecology establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.
- (2) Hog fuel boilers.
 - (a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of these units. This practice is to be scheduled for the same specific times each day and ecology or the authority shall be notified of the schedule or any changes.
 - (b) All hog fuel boilers shall utilize RACT and shall be operated and maintained to minimize emissions.
- (3) Orchard heating.
 - (a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.
 - (b) It is unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.
- (4) Grain elevators.

Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).
- (5) Catalytic cracking units.
 - (a) All existing catalytic cracking units shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7) and:
 - (i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.
 - (ii) No person shall cause or permit the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.
 - (b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115.
- (6) Other wood waste burners.

- (a) Wood waste burners not specifically provided for in this section shall meet all provisions of WAC 173-400-040.
 - (b) Such wood waste burners shall utilize RACT and shall be operated and maintained to minimize emissions.
- (7) Sulfuric acid plants.
- No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H₂SO₄, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H₂SO₄.
- (8) Sewage sludge incinerators. The standards for the incineration of sewage sludge, as listed in 40 CFR 503 subpart A - General Provisions and subpart E - Incineration, are hereby adopted by reference as proposed on (add proposal date).

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), §173-400-070, filed 9/13/96, effective 10/14/96; 91-05-064 (Order 90-06), §173-400-070, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-070, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-070, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-070, filed 5/8/79; Order DE 76-38, §173-400-070, filed 12/21/76. Formerly WAC 18-04-070.]

173-400-075 EMISSION STANDARDS FOR SOURCES EMITTING HAZARDOUS AIR POLLUTANTS.

- (1) The emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency (EPA) as in effect on date of adoption, as contained in Title 40, Code of Federal Regulations, Part 61, are adopted by reference. The term "administrator" in 40 CFR Part 61 shall mean both the administrator of EPA and the director of ecology.
- (2) Ecology or the authority may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of those pollutants regulated under 40 CFR Part 61 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.
- (3) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants such as: Asbestos, benzene from fugitive emission sources, beryllium, mercury, or vinyl chloride shall conform with the requirements of Title 40, Code of Federal Regulations, Part 61, as promulgated prior to January 1, 1993.
- (4) This section shall not apply to any source operating pursuant to a waiver granted by EPA or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

- (5) National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, as proposed on March 1, 1996, hereby set standards of the maximum achievable control technology (MACT) standards affecting facilities for the following described subparts of Title 40 CFR, Part 63.
- | | |
|------------|--|
| Subpart A | NESHAPs for Source Categories: General Provisions |
| Subpart D | Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants |
| Subpart F | NESHAPs for the Synthetic Organic Chemical Manufacturing Industry (a/k/a HON) |
| Subpart G | NESHAPs for the Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater |
| Subpart H | NESHAPs for the Synthetic Organic Chemical Manufacturing Industry: Equipment Leaks |
| Subpart L | NESHAPs for Source Categories and Coke Oven Batteries: Charging, topside and door leaks |
| Subpart N | NESHAPs for Chromium Electroplating and Anodizing |
| Subpart O | NESHAPs for Commercial (Ethylene Oxide) Sterilizers |
| Subpart Q | NESHAPs for Industrial Process Cooling Towers |
| Subpart R | NESHAPs Source Categories: Gasoline Distribution/Marketing (stage 1) |
| Subpart T | NESHAPs for Halogenated Solvent Cleaning Machines |
| Subpart W | NESHAPs for Epoxy Resins Production and Non-Nylon Polyamides Production |
| Subpart X | NESHAPs for the Secondary Lead Smelters |
| Subpart CC | NESHAPs for the Petroleum Refinery Industry |
| Subpart DD | NESHAPs from Off-site Waste and Recovery Treatment Operation |
| Subpart EE | NESHAPs for Magnetic Tape Manufacturing Operations |
| Subpart GG | NESHAPs for the Aerospace Manufacturing and Rework Facilities |
- (6) Emission Standards for Perchloroethylene Dry Cleaners.
- (a) Policy and purpose. It is not the intent of this section to place any additional burden on the generator beyond the federal MACT. Instead, the purpose of this section is to provide the reader with a clearer and more concise regulation.

- (b) Applicability. This section applies to all dry cleaning systems using perchloroethylene (PCE). The standards that apply to this section fall into the following source categories as presented in Table 1.

TABLE 1. Perchloroethylene Dry Cleaner NESHAP Source Categories

Applicability	Small Area Sources	Large Area Sources	Major Sources
Dry cleaning Facilities with	Consuming less than:	Consuming between:	Consuming more than:
(1) Only Dry-to-Dry Machines PCE/yr	140 gallons PCE/yr	140-2,100 gallons PCE/yr	2,100 gallons
(2) Only Transfer Machines PCE/yr	200 gallons PCE/yr	200-1,800 gallons PCE/yr	1,800 gallons
(3) Both Dry-to-Dry and Transfer Machines	140 gallons PCE/yr	140-1,800 gallons PCE/yr	1,800 gallons

- (c) General requirements. It shall be unlawful for any person to cause or allow the operation of a large area or major source perchloroethylene dry cleaning system unless all the air-perchloroethylene gas-vapor stream is vented through a refrigerated condenser. A major source dry cleaning system installed after September 21, 1993, must utilize a refrigerated condenser followed by a small carbon adsorber. It shall be unlawful for any person to cause or allow the operation of a small area source dry cleaning system installed after September 21, 1993, unless all the air-perchloroethylene dry cleaning system is vented through a refrigerated condenser.
- (d) General operation and maintenance requirements. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system unless all of the following conditions are met:
- (i) All perchloroethylene dry cleaners who generate seventy-five thousand dollars per year in revenue must conduct a visual inspection of the dry cleaning system at least once a week for perceptible leaks. Perceptible leaks shall be repaired within twenty-four hours of detection unless repair parts cannot be ordered within that period of time. If parts must be ordered to repair a leak, the parts shall be ordered within two working days of detecting the leak and repair parts shall be installed within five working days after receipt;
 - (ii) Drain cartridge filters in their housing or other sealed container for at least twenty-four hours before discarding the cartridges;
 - (iii) Close the door of each dry cleaning machine except when transferring articles to or from the machine;

- (iv) Store all perchloroethylene, and wastes containing perchloroethylene, in a closed container; and
 - (v) Operate and maintain the dry cleaning system according to the manufacturer's specification and recommendations.
- (e) Requirements for refrigerated condensers. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system using a refrigerated condenser unless all of the following conditions are met:
 - (i) The air temperature at the outlet of the refrigerated condenser installed on a dry-to-dry machine, dryer or reclaimer must be less than or equal to 45°F (7°C) during the cool-down period. Compliance shall be determined by monitoring the temperature on a continuous basis using a permanently installed temperature sensor that is accurate to within 2°F (1°C). The temperature shall be logged weekly;
 - (ii) The difference between the air temperature at the inlet and outlet of a refrigerated condenser installed on a washer must be greater than or equal to 20°F (11°C). Compliance shall be determined by monitoring the temperature on a continuous basis using a permanently installed temperature sensor that is accurate to within 2°F (1°C). The temperature shall be logged weekly. If the dry cleaning system was constructed before December 9, 1991, temperature sensors shall be installed by September 23, 1996;
 - (iii) The refrigerated condenser shall be operated with a diverter valve that prevents air drawn into the dry cleaning machine from passing through the refrigerated condenser when the door of the machines is open; and
 - (iv) The refrigerated condenser shall not vent the air-perchloroethylene gas-vapor stream while the dry cleaning machine drum is rotating or, if installed on a washer, until the washer door is opened.
- (f) Requirements for carbon adsorbers. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system using a carbon adsorber unless all of the following conditions have been met:
 - (i) The concentration of perchloroethylene at the exhaust of the carbon adsorber shall not exceed 100 ppm while the dry cleaning machine is venting to the carbon adsorber at the end of the last dry cleaning cycle prior to desorption of the carbon adsorber; and
 - (ii) Compliance shall be determined by weekly measurements of the concentration of perchloroethylene at the outlet of the carbon adsorber using a colorimetric detector tube that is accurate to within 25 ppm. If the dry cleaning system was constructed before December 9, 1991, monitoring shall commence by September 23, 1996.

- (g) Recordkeeping. Each dry cleaning facility shall have on-site the design specifications and operating manuals for all perchloroethylene dry cleaning equipment and process vent control devices, as well as an operations and maintenance plan that includes the following:
 - (i) A record of dates and results of all monitoring, inspections, and repair of the dry cleaning system; and
 - (ii) A record of the volume of perchloroethylene purchased each month including receipts of perchloroethylene purchases and a calculation of the amount of perchloroethylene purchased over the previous twelve months.
- (h) A record shall be kept of any pollution prevention activities that have been accomplished.
- (i) Major source requirements. If the dry cleaning system is located at a facility that emits 10 tons or more of perchloroethylene annually, the facility must meet the additional requirements set forth in 40 CFR Part 63, Subpart M.

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), §173-400-075, filed 9/13/96, effective 10/14/96; 93-05-044 (Order 92-34), §173-400-075, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), §173-400-075, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), §173-400-075, filed 3/6/85. Statutory Authority: Chapter 70.94 RCW. 84-10-019 (Order DE 84-8), §173-400-075, filed 4/26/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-075, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-075, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-075, filed 5/8/79; Order DE 76-38, §173-400-075, filed 12/21/76. Formerly WAC 18-04-075.]

173-400-081 STARTUP AND SHUTDOWN.

In promulgating technology-based emission standards and making control technology determinations (e.g., BACT, RACT, LAER, BART) ecology and the authorities shall consider any physical constraints on the ability of a source to comply with the applicable standard during startup or shutdown. Where ecology or the authority determines that the source or source category, operated and maintained in accordance with good air pollution control practice, is not capable of achieving continuous compliance with an emission standard during startup or shutdown, ecology or the authority shall include in the standard appropriate emission limitations, operating parameters, or other criteria to regulate the performance of the source during startup or shutdown conditions. In modeling the emissions of a source for purposes of demonstrating attainment or maintenance of national ambient air quality standards, ecology and the authorities shall take into account any incremental increase in allowable emissions under startup or shutdown conditions authorized by an emission limitation or other operating parameter adopted under this rule. Any emission limitation or other parameter adopted under this rule which increases

allowable emissions during startup or shutdown conditions over levels authorized in an approved state implementation plan shall not take effect until approved by EPA as a SIP amendment.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-081, filed 8/20/93, effective 9/20/93.]

173-400-091 VOLUNTARY LIMITS ON EMISSIONS.

- (1) Upon request by the owner or operator of a source, ecology or the authority with jurisdiction over the source shall issue a regulatory order that limits the source's potential to emit any air contaminant or contaminants to a level agreed to by the owner or operator and ecology or the authority with jurisdiction over the source.
- (2) A condition contained in an order issued under this section shall be less than the source's otherwise allowable annual emissions of a particular contaminant under all applicable requirements of the chapter 70.94 RCW and the FCAA, including any standard or other requirement provided for in the Washington state implementation plan. The term "condition" refers to limits on production or other limitations, in addition to emission limitations.
- (3) Any order issued under this section shall include monitoring, recordkeeping and reporting requirements sufficient to ensure that the source complies with any condition established under this section. Monitoring requirements shall use terms, test methods, units, averaging periods, and other statistical conventions consistent with the requirements of WAC 173-400-105.
- (4) Any order issued under this section shall be subject to the notice and comment procedures under WAC 173-400-171.
- (5) The terms and conditions of a regulatory order issued under this section shall be federally enforceable, upon approval of this section as an element of the Washington state implementation plan. Any proposed deviation from a condition contained in an order issued under this section shall require revision or revocation of the order.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-091, filed 8/20/93, effective 9/20/93.]

173-400-099 REGISTRATION PROGRAM.

- (1) Program purpose. The registration program is a program to develop and maintain a current and accurate record of air contaminant sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.
- (2) Program components. The components of the registration program consist of:

- (a) Initial registration and annual or other periodic reports from stationary source owners providing information on location, size, height of contaminant outlets, processes employed, nature and quantity of the air contaminant emissions, and other information that is relevant to air pollution and available or reasonably capable of being assembled. For purposes of this chapter, information relevant to air pollution may include air pollution requirements established by rule, regulatory order, or ordinance pursuant to chapter 70.94 RCW.
- (b) On-site inspections necessary to verify compliance with registration requirements.
- (c) Data storage and retrieval systems necessary for support of the registration program.
- (d) Emission inventory reports and emission reduction credits computed from information provided by source owners pursuant to registration requirements.
- (e) Staff review, including engineering analysis for accuracy and currentness of information provided by source owners pursuant to registration program requirements.
- (f) Clerical and other office support in direct furtherance of the registration program.
- (g) Administrative support provided in directly carrying out the registration program.

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), §173-400-099, filed 3/22/95, effective 4/22/95.]

173-400-100 SOURCE CLASSIFICATIONS.

- (1) Source classification list. In counties without an active local air pollution control authority, the owner or operator of each stationary source within the following source categories shall register the source with ecology:
 - (a) Agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;
 - (b) Agricultural drying and dehydrating operations;
 - (c) Any category of stationary sources to which a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters) applies;
 - (d) Any source category subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS) under 40 CFR Part 61, other than Subpart M (National Emission Standard for Asbestos) or a Maximum Achievable Control Technology (MACT) standard established under Section 112 of the Federal Clean Air Act;

- (e) Any source, stationary source or emission unit with a significant emission as defined by WAC 173-400-030(67);
- (f) Asphalt and asphalt products production facilities;
- (g) Brick and clay manufacturing plants, including tiles and ceramics;
- (h) Casting facilities and foundries, ferrous and nonferrous;
- (i) Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;
- (j) Chemical manufacturing plants;
- (k) Composting operations, including commercial, industrial and municipal, but exempting residential composting activities;
- (l) Concrete product manufacturers and ready mix and premix concrete plants;
- (m) Crematoria or animal carcass incinerators;
- (n) Dry cleaning plants;
- (o) Materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;
- (p) Flexible vinyl and urethane coating and printing operations;
- (q) Grain, seed, animal feed, legume, and flour processing operations, and handling facilities;
- (r) Hay cubers and pelletizers;
- (s) Hazardous waste treatment and disposal facilities;
- (t) Ink manufacturers;
- (u) Insulation fiber manufacturers;
- (v) Landfills, active and inactive, including covers, gas collections systems or flares;
- (w) Metal plating and anodizing operations;
- (x) Metallic and nonmetallic mineral processing plants, including rock crushing plants;
- (y) Mills such as lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;
- (z) Mineralogical processing plants;

- (aa) Other metallurgical processing plants;
 - (bb) Paper manufacturers;
 - (cc) Petroleum refineries;
 - (dd) Plastics and fiberglass product fabrication facilities;
 - (ee) Rendering plants;
 - (ff) Soil and groundwater remediation projects;
 - (gg) Surface coating manufacturers;
 - (hh) Surface coating operations including: Automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;
 - (ii) Synthetic fiber production facilities;
 - (jj) Synthetic organic chemical manufacturing industries;
 - (kk) Tire recapping facilities;
 - (ll) Wastewater treatment plants;
 - (mm) Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of FCAA.
- (2) Equipment classification list. In counties without an active local air pollution control authority, the owner or operator of the following equipment shall register the source with ecology:
- (a) Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;
 - (b) Boilers, all gas fired boilers above 10 million British thermal units per hour input;
 - (c) Chemical concentration evaporators;
 - (d) Degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;
 - (e) Ethylene oxide (ETO) sterilizers;
 - (f) Flares utilized to combust any gaseous material;
 - (g) Fuel burning equipment with a heat input of more than 1 million Btu per hour; except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;

- (h) Incinerators designed for a capacity of one hundred pounds per hour or more;
- (i) Ovens, burn-out and heat-treat;
- (j) Stationary internal combustion engines and turbines rated at five hundred horsepower or more;
- (k) Storage tanks for organic liquids associated with commercial or industrial facilities with capacities equal to or greater than 40,000 gallons;
- (l) Vapor collection systems within commercial or industrial facilities;
- (m) Waste oil burners above 0.5 mm Btu heat output;
- (n) Woodwaste incinerators.

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), §173-400-100, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), §173-400-100, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-100, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), §173-400-100, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-100, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-100, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-100, filed 5/8/79; Order DE 76-38, §173-400-100, filed 12/21/76. Formerly WAC 18-04-100.]

173-400-101 REGISTRATION ISSUANCE.

- (1) General. Any person operating or responsible for the operation of an air contaminant source for which registration and reporting are required shall register the source emission unit with ecology or the authority. The owner or operator shall make reports containing information as may be required by ecology or the authority concerning location, size and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled.
- (2) Registration form. Registration information shall be provided on forms supplied by ecology or the authority and shall be completed and returned within the time specified on the form. Emission units within the facility shall be listed separately unless ecology or the authority determines that certain emission units may be combined into process streams for purposes of registration and reporting.
- (3) Signatory responsibility. The owner, operator, or their designated management representative shall sign the registration form for each source. The owner or operator of the source shall be responsible for notifying ecology or the authority of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.

- (4) Operational and maintenance plan. Owners or operators of registered sources within ecology's jurisdiction shall maintain an operation and maintenance plan for process and control equipment. The plan shall reflect good industrial practice and shall include a record of performance and periodic inspections of process and control equipment. In most instances, a manufacturer's operations manual or an equipment operation schedule may be considered a sufficient operation and maintenance plan. The plan shall be reviewed and updated by the source owner or operator at least annually. A copy of the plan shall be made available to ecology upon request.
- (5) Report of closure. A report of closure shall be filed with ecology or the authority within ninety days after operations producing emissions permanently cease at any applicable source under this section.
- (6) Report of change of ownership. A new owner or operator shall report to ecology or the authority within ninety days of any change of ownership or change in operator.
- (7) Operating permit program source exemption. Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104.

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), §173-400-101, filed 3/22/95, effective 4/22/95; 94-10-042 (Order 93-39), §173-400-101, filed 4/29/94, effective 5/30/94.]

173-400-102 SCOPE OF REGISTRATION AND REPORTING REQUIREMENTS.

- (1) Administrative options. A source in a listed source category that is located in a county without an active local air authority will be addressed in one of several ways:
 - (a) The source will be required to register and report once each year. The criteria for identifying these sources are listed in subsection (2) of this section.
 - (b) The source will be required to register and report once every three years. The criteria for identifying these sources are listed in subsection (3) of this section.
 - (c) The source will be exempted from registration program requirements. The criteria for identifying these sources are listed in subsection (4) of this section.
- (2) Sources requiring annual registration and inspections. An owner or operator of a source in a listed source category that meets the following criteria shall register and report once each year:
 - (a) The source emits one or more pollutants at rates greater than the emission rates listed in WAC 173-400-030(67);
 - (b) Annual registration and reporting is necessary to comply with federal reporting requirements and emission standards; or

- (c) Annual registration and reporting is required in a reasonably available control technology determination for the source category.
 - (d) The director of ecology determines that the source poses a threat to human health and the environment.
- (3) Sources requiring periodic registration and inspections. An owner or operator of a source in a listed source category that meets the following criteria shall register and report once every three years:
 - (a) The source emits one or more pollutants at rates greater than the emission rates listed in subsection (5) of this section and less than the emission rates listed in WAC 173-400-030(67); or
 - (b) The source emits measurable amounts of one or more Class A or Class B toxic air pollutants listed in WAC 173-460-150 and 173-460-160.
- (4) Sources exempt from registration program requirements. Any source included in a listed source category that is located in a county without an active local air authority shall not be required to register if ecology determines the following:
 - (a) The source emits pollutants below emission rates specified in subsection (5) of this section; and
 - (b) The source or emission unit does not emit measurable amounts of Class A or Class B toxic air pollutants specified in WAC 173-460-150 and 173-460-160.
- (5) Criteria for defining exempt sources. The following emission rates will be used to identify listed sources that are exempt from registration program requirements:

Pollutant	Tons/Year
Carbon Monoxide	5.0
Nitrogen oxides.....	2.0
Sulfur dioxide.....	2.0
Particulate Matter (PM)	1.25
Fine Particulate (PM10)	0.75
Volatile organic compounds (VOC)	2.0
Lead.....	0.005

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), §173-400-102, filed 3/22/95, effective 4/22/95.]

173-400-103 EMISSION ESTIMATES.

- (1) Procedure for estimating emissions. In counties without an active local air pollution control authority, registration may include an estimate of actual emissions taking into

account equipment, operating conditions, and air pollution control measures. Registration may also include a flowchart of plant processes, operational parameters, and specifications of air pollution control equipment. The emissions estimate shall be based upon actual test data or, in the absence of such data, upon procedures acceptable to ecology. Any emission data submitted to ecology shall be verifiable using currently accepted engineering criteria. The following procedures may be used to estimate emissions from individual sources or emissions units:

- (a) Source-specific testing data;
 - (b) Mass balance calculations;
 - (c) A published, verifiable emission factor that is applicable to the source;
 - (d) Other engineering calculations; or
 - (e) Other procedures to estimate emissions that are acceptable to ecology.
- (2) Owner or operator review. Ecology will provide the owner or operator of the source an opportunity to review any emission estimates prepared by ecology. An owner or operator may submit additional information and any justification for not using the methods listed above. This information will be evaluated by ecology to determine whether it is based on currently accepted engineering criteria. If none of the above methods are available or applicable to the source, an appropriate method will be established and approved by ecology on a case-by-case basis.

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), §173-400-103, filed 3/22/95, effective 4/22/95.]

173-400-104 REGISTRATION FEES.

- (1) Registration fee determination. In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.
- (2) Budget preparation. Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the resources required to perform registration program activities listed in WAC 173-400-097(2). Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.
- (3) Registration fee schedule. Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:
 - (a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.

- (b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:
 - (i) Flat component. This portion of a source's fee shall be calculated by the equal division of thirty-five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration.
 - (ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. This portion of the fee is calculated by dividing forty percent of the budget amount allocated to annually registered sources by the total complexity of sources located in ecology's jurisdiction. The quotient is then multiplied by an individual source's complexity rating to determine that source's complexity portion of the fee.
 - (iii) Emissions component. This portion of a source's fee is calculated by dividing twenty-five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable emissions include all air pollutants except carbon monoxide and total suspended particulate.
- (4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.
- (5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.
- (6) Fee reductions for economic hardships. If a small business owner believes the registration fee results in an extreme economic hardship, the small business owner may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the registration fee through to customers; average annual profits, and cumulative effects of multiple site ownership. In no case will a registration fee be reduced below two hundred dollars.
- (7) Fee payments. Fees specified in this section shall be paid within thirty days of receipt of ecology's billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten

percent of the fee, whichever is more, may be assessed for any fee not received after the thirty-day period.

- (8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.
- (9) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of ecology budget functions.

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), §173-400-104, filed 3/22/95, effective 4/22/95.]

173-400-105 RECORDS, MONITORING, AND REPORTING.

The owner or operator of a source shall upon notification by the director of ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures.

- (1) Emission inventory. The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory may include stack and fugitive emissions of particulate matter, PM10, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, and other contaminants, and shall be submitted (when required) no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards.
- (2) Monitoring. Ecology shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

As a part of this program, the director of ecology or an authorized representative may require any source under the jurisdiction of ecology to conduct stack and/or ambient air monitoring and to report the results to ecology.

- (3) Investigation of conditions. Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from ecology or an authority shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.
- (4) Source testing. To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR 60 Appendix A which are adopted by reference, or approved procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington,

department of ecology, as of July 12, 1990, on file at ecology. The operator of a source may be required to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. Ecology shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

- (5) Continuous monitoring and recording. Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

- (a) Fossil fuel-fired steam generators.

- (i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned.

- (ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

- (iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

- (iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to ecology or the authority by the owner(s) or operator(s).

- (b) Sulfuric acid plants.

Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

- (c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries.

Opacity where fresh feed capacity is more than twenty thousand barrels per day.

- (d) Wood residue fuel-fired steam generators.

- (i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.

- (ii) Continuous monitoring equipment. The requirements of (e) of this subsection do not apply to wood residue fuel-fired steam generators, but

continuous monitoring equipment required by (d) of this subsection shall be subject to approval by ecology.

- (e) Owners and operators of those sources required to install continuous monitoring equipment under this chapter shall demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5, promulgated October 6, 1975, and amended November 7, 1986, which is adopted by reference.
 - (f) Special considerations. If for reason of physical plant limitations or extreme economic situations, ecology determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.
 - (g) Exemptions. This subsection (5) does not apply to any source which is:
 - (i) Subject to a new source performance standard. These sources will be governed by WAC 173-400-115.
 - (ii) Not subject to an applicable emission standard.
 - (h) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the source owner(s) or operator(s) shows to the satisfaction of ecology or the authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.
- (6) Change in raw materials or fuels for sources not subject to requirements of the operating permit program. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by subsection (1) of this section shall require the submittal of sufficient information to ecology or the authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. Ecology or the authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.
 - (7) No person shall make any false materials statement, representation or certification in any form, notice or report required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.
 - (8) No person shall render inaccurate any monitoring device or method required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), §173-400-105, filed 9/13/96, effective 10/14/96; 93-18-007 (Order 93-03), §173-400-105, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-105, filed 2/19/91, effective 3/22/91; 87-20-019 (Order 87-12), §173-400-105, filed 9/30/87.]

173-400-107 EXCESS EMISSIONS.

- (1) The owner or operator of a source shall have the burden of proving to ecology or the authority or the decision-making authority in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (4), (5) and (6) of this section.
- (2) Excess emissions determined to be unavoidable under the procedures and criteria in this section shall be excused and not subject to penalty.
- (3) Excess emissions which represent a potential threat to human health or safety or which the owner or operator of the source believes to be unavoidable shall be reported to ecology or the authority as soon as possible. Other excess emissions shall be reported within thirty days after the end of the month during which the event occurred or as part of the routine emission monitoring reports. Upon request by ecology or the authority, the owner(s) or operator(s) of the source(s) shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.
- (4) Excess emissions due to startup or shutdown conditions shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been prevented through careful planning and design and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.
- (5) Maintenance. Excess emissions due to scheduled maintenance shall be considered unavoidable if the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better scheduling for maintenance or through better operation and maintenance practices.
- (6) Excess emissions due to upsets shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that:
 - (a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;
 - (b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and
 - (c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during

the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-107, filed 8/20/93, effective 9/20/93.]

173-400-110 NEW SOURCE REVIEW (NSR).

(1) Applicability.

- (a) A notice of construction application must be filed by the owner or operator and an order of approval issued by ecology or an authority prior to the establishment of any new source or emission unit or modification which is listed in WAC 173-400-100 or required to obtain a permit under RCW 70.94.161.
- (b) Ecology or the authority may require that a notice of construction application be filed by the owner or operator of a proposed new source or modification and an order of approval issued by ecology or an authority prior to the establishment of any new source or emission unit or modification, other than a single family or a duplex dwelling.
- (c) New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification.

(2) Completeness determination. Within thirty days of receipt of a notice of construction application, ecology or the authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary, based upon review of information already supplied, to complete the application. For a project subject to PSD review under WAC 173-400-141 a completeness determination includes a determination that the application provides all information required to conduct PSD review.

(3) Final determination.

- (a) Within sixty days of receipt of a complete application, ecology or the authority shall either issue a final decision on the application or, for those projects subject to public notice, initiate notice and comment procedures under WAC 173-400-171 on a proposed decision, followed as promptly as possible by a final decision. A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the notice of construction application required by this section. A notice of construction application

designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines.

- (b) Every final determination on a notice of construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of ecology or the authority.
 - (c) If the new source is a major stationary source or the change is a major modification, ecology or the authority shall submit any control technology determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA.
- (4) Appeals. An order of approval, any conditions contained in an order of approval, or the denial of a notice of construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. Ecology or the authority shall promptly mail copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the Pollution Control Hearings Board and, where applicable, to the EPA Environmental Appeals Board.
- (5) Portable sources. For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction application, providing that the owner(s) or operator(s) notifies ecology or the authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable ecology or the authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time (one year or less) and ecology or the authority may set specific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards.
- (6) Approval to construct or modify a stationary source shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. Ecology or the authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-110, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-110, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), §173-400-110, filed 4/15/83. Statutory Authority: RCW 70.94.331, 70.94.510, and 70.94.785. 81-03-002 (Order DE 80-53), §173-400-110, filed 1/8/81. Statutory Authority: RCW

70.94.331. 80-11-059 (Order DE 80-14), §173-400-110, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-110, filed 5/8/79; Order DE 76-38, §173-400-110, filed 12/21/76. Formerly WAC 18-04-110.]

173-400-112 REQUIREMENTS FOR NEW SOURCES IN NONATTAINMENT AREAS.

Ecology or an authority reviewing an application to establish a new source or modification in a nonattainment area, shall issue an order of approval, which order shall contain such conditions as are reasonably necessary to assure the maintenance of compliance with this chapter, if they determine that the proposed project satisfies each of the following requirements:

- (1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.
- (2) The proposed new source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it will achieve LAER for the contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.
- (3) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the state implementation plan and will comply with WAC 173-400-113(3) for all contaminants for which the area has not been designated nonattainment.
- (4) If the proposed new source is a major stationary source or the proposed modification is a major modification, ecology or the authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
- (5) If the proposed new source or the proposed modification is major for the contaminant for which the area is designated nonattainment, allowable emissions from the proposed new source or modification of that contaminant are offset by reductions in actual emissions from existing sources in the nonattainment area. Emission offsets must be sufficient to ensure that total allowable emissions from existing major stationary sources in the nonattainment area, new or modified sources which are not major stationary sources, and the proposed new or modified source will be less than total actual emissions from existing sources (prior to submittal of the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the FCAA) reasonable further progress. All offsetting emission reductions must satisfy the following requirements:

- (a) The proposed new level of allowable emissions of the source or emission unit(s) providing the reduction must be less than the current level of actual emissions of that source or emissions unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders, or permits cannot be credited.
 - (b) The emission reductions must provide for a net air quality benefit. For marginal ozone nonattainment areas, the total emissions of volatile organic compounds or total emissions of nitrogen oxides are reduced by a ratio of 1.1 to 1 for the area in which the new source is located. For any other nonattainment area, the emissions offsets must provide a positive net air quality benefit in the nonattainment area. Determinations on whether emissions offsets provide a positive net air quality benefit will be made in accordance with the guidelines contained in 40 CFR 51 Appendix S.
 - (c) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the new or modified source commences operation. The new source may not commence operation before the date such reductions are actually achieved. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.
- (6) If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Federal Clean Air Act, including all rules contained in an EPA-approved state implementation plan.
 - (7) If the proposed new source is a major stationary source or the proposed modification is a major modification for the purposes of the PSD program described in WAC 173-400-141, it meets the requirements of that program for all contaminants for which the area has not been designated nonattainment.
 - (8) If the proposed new source or modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that chapter.
 - (9) If the proposed new source is a major stationary source or the proposed modification is a major modification, ecology or the authority has complied with the visibility protection review requirements of 40 CFR 52.28(c) through (e) except for (c)(4)(i), (g), and (h), as in effect on March 3, 1993, and determined that the project meets the criteria set forth in 40 CFR 52.28(g). For purposes of this subsection, definitions referenced in 40 CFR 52.28(b) are incorporated by reference, except that the term "visibility protection area" means any Class I area, and terms defined in WAC 173-400-030 shall have the meanings

defined in that section. References in 40 CFR 52.28 to "the Administrator" shall mean the agency (either ecology or the authority) processing the notice of construction application.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-112, filed 8/20/93, effective 9/20/93.]

173-400-113 REQUIREMENTS FOR NEW SOURCES IN ATTAINMENT OR UNCLASSIFIABLE AREAS.

Ecology or an authority reviewing an application to establish a new source or modification in an area that is in attainment or unclassifiable for any air contaminant the new source would emit and that is in attainment or unclassifiable for ozone if the proposed new or modified source would emit VOCs or NOX, shall issue an order of approval, which order shall contain such conditions as are reasonably necessary to assure the maintenance of compliance with this chapter, if they determine that the proposed project satisfies all of the following requirements:

- (1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.
- (2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.
- (3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutant(s) for which the area has been designated nonattainment:

Pollutant	Annual	24-Hour	8-Hour	3-Hour	1-Hour
	Average	Average	Average	Average	Average
CO-	-	0.5 mg/m ³	-	2 mg/m ³	
SO ₂ µg/m ³	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	30
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
NO ₂	1.0 µg/m ³	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

- (4) If the proposed new source is a major stationary source or the proposed modification is a major modification for purposes of the PSD program described in WAC 173-400-141, it meets all applicable requirements of that chapter.
- (5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that program.
- (6) If, within the meaning of the PSD program described in WAC 173-400-141, the proposed new source is a major stationary source or the proposed modification is a major modification, ecology or the authority has complied with the visibility protection review requirements of 40 CFR 52.27(d) through (f), as in effect on March 3, 1993, and has determined that the source would not cause an adverse impact upon visibility. References in 40 CFR 52.27 to "the Administrator" shall mean the agency (either ecology or the authority) processing the notice of construction application.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-113, filed 8/20/93, effective 9/20/93.]

173-400-114 REQUIREMENTS FOR REPLACEMENT OR SUBSTANTIAL ALTERATION OF EMISSION CONTROL TECHNOLOGY AT AN EXISTING STATIONARY SOURCE.

- (1) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a notice of construction application with the appropriate authority, or with ecology in areas or for sources over which ecology has jurisdiction. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.
- (2) For projects not otherwise reviewable under WAC 173-400-110, ecology or the authority may:
 - (a) Require that the owner or operator employ RACT for the affected emission unit;
 - (b) Prescribe reasonable operation and maintenance conditions for the control equipment; and
 - (c) Prescribe other requirements as authorized by chapter 70.94 RCW.
- (3) Within thirty days of receipt of a notice of construction application under this section ecology or the authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty days of receipt of a complete notice of construction application under this section ecology or the authority shall either issue an order of approval or a proposed RACT determination for the proposed project.

- (4) Construction shall not commence, as defined in WAC 173-400-030(15), on a project subject to review under this section until ecology or the authority issues a final order of approval. However, any notice of construction application filed under this section shall be deemed to be approved without conditions if ecology or the authority takes no action within thirty days of receipt of a complete notice of construction application.
- (5) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. Ecology or the authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-114, filed 8/20/93, effective 9/20/93.]

173-400-115 STANDARDS OF PERFORMANCE FOR NEW SOURCES.

Title 40, Code of Federal Regulations, Part 60 (standards of performance for new sources), as in effect on January 1, 1993, is adopted by reference except for sections 60.5 (determination of construction or modification) and 60.6 (review of plans). The term "administrator" in 40 CFR Part 60 shall mean both the administrator of EPA and the director of ecology.

As of January 1, 1993, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60:

Subpart D

Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts

Subpart Da

Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 250

Subpart Db

Industrial-commercial-institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts

Subpart Dc

Small industrial-commercial-institutional steam generating units

Subpart E

Incinerators

Subpart Ea
Municipal waste combustors

Subpart F
Portland cement plants

Subpart G
Nitric acid plants

Subpart H
Sulfuric acid plants

Subpart I
Asphalt concrete plants

Subpart J
Petroleum refineries which produce less than 25,000 barrels per day of refined products

Subpart K
Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons

Subpart Ka
Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons

Subpart Kb
Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984

Subpart L
Secondary lead smelters

Subpart M
Brass and bronze ingot production plants

Subpart N
Iron and steel plants

Subpart Na
Secondary emissions from basic oxygen process steel making facilities

Subpart O
Sewage treatment plants

Subpart P
Primary copper smelters

Subpart Q
Primary zinc smelters

Subpart R
Primary lead smelters

Subpart S
Primary aluminum reduction plants

Subpart T
Phosphate fertilizer industry: Wet process phosphoric acid plants

Subpart U
Phosphate fertilizer industry: Superphosphoric acid plants

Subpart V
Phosphate fertilizer industry: Diammonium phosphate plants

Subpart W
Phosphate fertilizer industry: Triple superphosphate plants

Subpart X
Phosphate fertilizer industry: Granular triple superphosphate storage facilities

Subpart Y
Coal preparation plants

Subpart Z
Ferroalloy production facilities

Subpart AA
Steel plants: Electric arc furnaces

Subpart Aaa
Steel plants: Electric arc furnaces and argon-oxygen decarburization vessels

Subpart BB
Kraft pulp mills

Subpart CC
Glass manufacturing plants

Subpart DD
Grain elevators

Subpart EE
Industrial surface coating: Metal furniture

Subpart GG
Stationary gas turbines

Subpart HH
Lime manufacturing plants

Subpart KK

Lead-acid battery plants

Subpart LL

Metallic mineral processing plants

Subpart MM

Automobile and light duty truck surface coating operations

Subpart NN

Phosphate rock plants

Subpart PP

Ammonium sulfate manufacture

Subpart QQ

Publication rotogravure printing

Subpart RR

Pressure sensitive tape and label surface coating operations

Subpart SS

Industrial surface coating: Large appliances

Subpart TT

Industrial surface coating: Metal coils

Subpart UU

Asphalt processing and asphalt roofing manufacture

Subpart VV

SOCMI equipment leaks (VOC)

Subpart WW

Beverage can surface coating operations

Subpart XX

Bulk gasoline terminals

Subpart AAA

New residential wood heaters

Subpart BBB

Rubber tire manufacturing industry

Subpart DDD

VOC emissions from the polymer manufacturing industry

Subpart FFF

Flexible vinyl and urethane coating and printing

Subpart GGG

Petroleum refineries - compressors and fugitive emission sources

Subpart HHH

Synthetic fiber production facilities

Subpart III

VOC emissions from SOCM I air oxidation unit processes

Subpart JJJ

Petroleum dry cleaners

Subpart KKK

Equipment leaks of VOC from onshore natural gas processing plants

Subpart LLL

Onshore natural gas processing; SO₂ emissions

Subpart NNN

VOC emissions from SOCM I distillation operations

Subpart PPP

Wool fiberglass insulation manufacturing plants

Subpart QQQ

VOC emissions from petroleum refinery wastewater emissions

Subpart RRR

VOC emissions from synthetic organic chemical manufacturing industry

Subpart SSS

Magnetic tape coating facilities

Subpart TTT

Industrial surface coating: Surface coating of plastic parts for business machines

Subpart UUU

Calciners and dryers in mineral industries

Subpart VVV

Polymeric coating of supporting substrates facilities

Note: For fossil fuel fired steam generators referenced by Subpart D and Da above, units greater than 250 megawatts are governed by the energy facility site evaluation council (EFSEC) in Title 463 WAC.

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), §173-400-115, filed 9/13/96, effective 10/14/96; 93-05-044 (Order 92-34), §173-400-115, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), §173-400-115, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), §173-400-115, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-

13), §173-400-115, filed 4/15/83; 82-16-019 (Order DE 82-20), §173-400-115, filed 7/27/82. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-115, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-115, filed 5/8/79; Order DE 76-38, §173-400-115, filed 12/21/76. Formerly WAC 18-04-115.]

173-400-116 NEW SOURCE REVIEW FEES.

- (1) Applicability. Every person required to submit a notice of construction application to the department of ecology as authorized in RCW 70.94.152 for establishment of any proposed new source or emissions unit(s) shall pay fees as set forth in subsections (2) and (3) of this section. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee to ecology to cover the costs of Prevention of significant deterioration (PSD) permits issued pursuant to WAC 173-400-141, Second tier analysis pursuant to WAC 173-460-090, and risk management decisions pursuant to WAC 173-460-100 as set forth in subsection (3) of this section. Fees assessed under this section shall apply without regard to whether an order of approval is issued or denied.
- (2) Basic review fees. All owners or operators of proposed new sources are required to pay a basic review fee. The basic review fee covers the costs associated with preapplication assistance, completeness determination, BACT determination, technical review, public involvement and approval/denial orders. Complexity determination shall be based on the project described in the notice of construction application. Basic review fees are shown below:
 - (a) Low complexity new source or emission unit (emissions of individual criteria pollutants are all less than one-half of the significance levels established in WAC 173-400-030(67) or emissions of individual toxic air pollutants are all less than 2.0 tons/year) - one thousand dollars;
 - (b) Moderate complexity new source or emission unit (emissions of one or more individual criteria pollutants are greater than one-half of the significance levels established in WAC 173-400-030(67) or emissions of one or more toxic air pollutants are greater than 2.0 tons/year and less than ten tons/year) - five thousand dollars; or
 - (c) High complexity new source or emissions unit (emissions of one or more criteria pollutants are greater than the significance levels established in WAC 173-400-030(67) or emissions of one or more toxic air pollutants are greater than ten tons/year) - fifteen thousand dollars.
 - (d) Exceptions. The following fees for new source review shall be charged instead of the applicable fees listed in (a) through (c) of this subsection and in subsection (3) of this section:
 - (i) Dry cleaners \$200

- | | | |
|-------|--|-------|
| (ii) | Gasoline stations | \$200 |
| (iii) | Storage tanks | |
| (A) | < 20,000 gallons | \$200 |
| (B) | 20,000 - 100,000 gallons | \$500 |
| (C) | > 100,000 | \$700 |
| (iv) | Chromic acid plating and anodizing identified in WAC 173-460-060 | \$200 |
| (v) | Solvent metal cleaners identified in WAC 173-460-060 | \$200 |
| (vi) | Abrasive blasting identified in WAC 173-460-060 | \$200 |
| (vii) | New emission units or activities that qualify as insignificant emission units under WAC 173-401-530 whether located at a chapter 401 source or nonchapter 401 source | \$200 |
- (e) Additional units. An owner or operator proposing to build more than one identical emission unit shall be charged a fee for the additional units equal to one-third the basic review fee of the first unit.
- (3) Additional charges. In addition to those fees required under subsection (2)(a) through (c) of this section, the following fees will be required as applicable:
- (a) Prevention of significant deterioration review (includes ecology review of local air authority sources) - ten thousand dollars;
 - (b) Establishing LAER and offset requirements for a major stationary source or major modification proposing to locate in a nonattainment area - ten thousand dollars;
 - (c) Tier II toxics review as required under WAC 173-460-090 - seven thousand five hundred dollars;
 - (d) Tier III review as required under WAC 173-460-100 - five thousand dollars;
 - (e) State Environmental Policy Act review (where ecology is the lead agency):
 - (i) Determination of nonsignificance (DNS) and environmental checklist review - two hundred dollars; or
 - (ii) Environmental impact statement (EIS) review - two thousand dollars;
 - (iii) Where more than one ecology program is charging a fee for reviewing or preparing SEPA documents, ecology will not charge a SEPA review fee as part of the new source review fees;

- (f) Case-by-case MACT determinations required for a new source or modification under Section 112(g) or Section 112(j) of the FCAA - five thousand dollars.
- (4) Small business fee reduction. The new source review fee identified in subsections (2) and (3) of this section may be reduced for a small business.
 - (a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 43.31.025.
 - (b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:
 - (i) By an authorized corporate officer in the case of a corporation;
 - (ii) By an authorized partner in the case of a limited or general partnership; or
 - (iii) By the proprietor in the case of a sole proprietorship.
 - (c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.
 - (d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:
 - (i) Fifty percent of the new source review fee; or
 - (ii) Two hundred fifty dollars.
 - (e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.
- (5) Fee reductions for pollution prevention initiatives. Ecology may reduce the fees defined in subsections (2) and (3) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.
- (6) Fee payments. Fees specified in subsections (2) through (5) of this section shall be paid at the time a notice of construction application is submitted to the department. A notice of construction application is considered incomplete until ecology has received the appropriate new source review payment. Additional charges assessed pursuant to subsection (3) of this section shall be due thirty days after receipt of an ecology billing

statement. All fees collected under this regulation shall be made payable to the Washington department of ecology.

- (7) Dedicated account. All new source review fees collected by the department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All new source review fees collected by the department from nonpermit program sources shall be deposited in the air pollution control account.
- (8) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of complexity categories.
- (9) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), §173-400-116, filed 9/13/96, effective 10/14/96. Statutory Authority: RCW 70.94.153 and 70.94.154. 94-17-070, §173-400-116, filed 8/15/94, effective 9/15/94.]

173-400-120 BUBBLE RULES.

- (1) Applicability. The owner(s) or operator(s) of any source(s) may apply for a bubble for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.
- (2) Conditions. A bubble may be authorized provided the following conditions have been demonstrated to the satisfaction of ecology or the authority.
 - (a) The contaminants exchanged must be of the same type, that is, PM10 for PM10, sulfur dioxide for sulfur dioxide, etc.
 - (b) The bubble will not interfere with the attainment and maintenance of air quality standards. No bubble shall be authorized in a nonattainment area unless there is an EPA-approved SIP which demonstrates attainment for that area.
 - (c) The bubble will not result in a delay in compliance by any source, nor a delay in any existing enforcement action.
 - (d) The bubble will not supersede NSPS, NESHAPS, BACT, or LAER. The emissions of hazardous contaminants shall not be increased.
 - (e) The bubble will not result in an increase in the sum of actual emission rates of the contaminant involved from the emissions units involved.
 - (f) A bubble may not be authorized only for opacity limits. However, if the emission limit for particulates for a given emissions unit is increased as part of a bubble, the

opacity limit for the given emissions unit may be increased subject to the following limitations:

- (i) The new opacity limit shall be specific for the given emissions unit;
 - (ii) The new opacity limit shall be consistent with the new particulates limit;
 - (iii) An opacity greater than sixty percent shall never be authorized;
 - (iv) If the given emissions unit emits or has the potential to emit one hundred tons per year or more of particulate matter, the opacity shall be monitored continuously.
- (g) The emission limits of the bubble are equivalent to existing limits in enforceability.
- (h) Concurrent with or prior to the authorization of a bubble, each emission unit involved in a bubble shall receive or have received a regulatory order or permit that establishes total allowable emissions from the source of the contaminant being bubbled, expressed as weight of the contaminant per unit time.
- (i) There will be no net adverse impact upon air quality from the establishment of new emission requirements for a specific source or emissions unit. Determination of net adverse impact shall include but not be limited to public perception of opacity and public perception of odorous contaminants.
- (j) Specific situations may require additional demonstration as requested by ecology or the authority.
- (3) Jurisdiction. Whenever a bubble application involves emissions units, some of which are under the jurisdiction of an authority, approval will require concurrence by both authorities. The new emission limits for each emissions unit will be enforced by the authority of original jurisdiction.
- (4) Additional information. Within thirty days, after the receipt of a bubble application and all supporting data and documentation, ecology or the authority may require the submission of additional information needed to review the application.
- (5) Approval. Within thirty days after all the required information has been received, ecology or the authority shall approve or deny the application, based on a finding that conditions in subsection (2)(a) through (j) of this section have been satisfied or not. If the application is approved, a regulatory order or equivalent document shall be issued which includes new allowable emissions limits expressed in weight of pollutant per unit time for each emissions unit affected by the bubble. The regulatory order or equivalent document shall include any conditions required to assure that subsection (2)(a) through (j) of this section will be satisfied. If the bubble depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-120, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-120, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 89-02-055 (Order 88-39), §173-400-120, filed 1/3/89; 83-09-036 (Order DE 83-13), §173-400-120, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), §173-400-120, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), §173-400-120, filed 5/8/79; Order DE 76-38, §173-400-120, filed 12/21/76. Formerly WAC 18-04-120.]

173-400-131 ISSUANCE OF EMISSION REDUCTION CREDITS.

- (1) **Applicability.** The owner(s) or operator(s) of any source(s) may apply to ecology or the authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions unit(s) involved.
- (2) **Time of application.** The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.
- (3) **Conditions.** An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of ecology or the authority.
 - (a) The quantity of emissions in the ERC shall be less than or equal to the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.
 - (b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices, etc.
 - (c) The ERC must be large enough to be readily quantifiable relative to the source strength of the emissions unit(s) involved.
 - (d) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under WAC 173-400-112(4), nor as part of a bubble transaction under WAC 173-400-120, nor to satisfy NSPS, NESHAPS, BACT, or LAER.
 - (e) Concurrent with or prior to the authorization of an ERC, the applicant shall receive (have received) a regulatory order or permit that establishes total allowable emissions from the source or emissions unit of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time.
 - (f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

- (4) Additional information. Within thirty days after the receipt of an ERC application and all supporting data and documentation, ecology or the authority may require the submission of additional information needed to review the application.
- (5) Approval. Within thirty days after all required information has been received, ecology or the authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (e) of this section have been satisfied or not. If the application is approved, ecology or the authority shall:
 - (a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the allowable emission rates claimed in the ERC application, expressed in weight of pollutant per unit time for each emission unit involved. The regulatory order or equivalent document shall include any conditions required to assure that subsection (3)(a) through (e) of this section will be satisfied. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment; and
 - (b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminant(s) involved, the emission decrease expressed as weight of pollutant per unit time, the nonattainment area involved, if applicable, and the person to whom the certificate is issued.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-131, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-131, filed 2/19/91, effective 3/22/91.]

173-400-136 USE OF EMISSION REDUCTION CREDITS.

- (1) Permissible use. An ERC may be used to satisfy the requirements for authorization of a bubble under WAC 173-400-120, as a part of a determination of "net emissions increase," as an offsetting reduction to satisfy the requirements for new source review per WAC 173-400-112, 173-400-113(3) or (6), or to satisfy requirements for PSD review per WAC 173-400-113(4).
- (2) Surrender of ERC certificate. When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the issuing authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.
- (3) Conditions of use. An ERC may be used only for the contaminant(s) for which it was issued. Ecology or the authority may impose additional conditions of use to account for temporal and spatial differences between the emissions unit(s) that generated the ERC and the emissions unit(s) that use the ERC.
- (4) Sale of an ERC. An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of

ownership, the certificate must be surrendered to the issuing authority. After receiving the certificate, the issuing authority shall reissue the certificate to the new owner.

- (5) Time of use. An unused ERC and any unused portion thereof shall expire ten years after date of original issue.
- (6) Discount due to change in SIP. If reductions in emissions beyond those identified in the state implementation plan are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by ecology or the authority after public involvement per WAC 173-400-171. Any such discount shall not exceed the percentage of additional emission reduction needed to reach attainment.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-136, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-136, filed 2/19/91, effective 3/22/91.]

173-400-141 PREVENTION OF SIGNIFICANT DETERIORATION (PSD).

Section 40 CFR 52.21, Subparts (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), (t), (v), and (w), Prevention of Significant Deterioration of Air Quality, as in effect on March 1, 1996, are incorporated by reference with the following additions and modifications:

- (1) Construction of "administrator." In 40 CFR 52.21 (b)(17), federally enforceable, (f)(l)(v), (f)(3), and (f)(4)(i), exclusions from increment consumption, (g), redesignation, (l) and (2), air quality models, (p)(2), federal land manager, and (t), disputed permits or redesignations, the word "administrator" shall be construed in its original meaning. In 40 CFR 52.21 (b)(3)(iii) administrator shall mean both the administrator of EPA and the director of ecology.
- (2) Contemporaneous. Subpart 40 CFR 52.21 (b)(3)(ii) is changed to read: "An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date ten years before construction on the particular change commences and the date that the increase from the particular change occurs. If a decrease occurred more than one year prior to the date of submittal of the notice of construction application for the particular change it can only be credited if the decrease has been documented by an emission reduction credit."
- (3) Public participation. Subpart 40 CFR 51.166(q) public participation, as in effect March 1, 1996, is hereby incorporated by reference except that in 40 CFR 51.166 (q)(2)(iv), the phrase "specified time period" shall mean thirty days and the word "administrator" shall mean the EPA administrator.
- (4) Section 40 CFR 51.166 Subpart (p)(1) Sources Impacting Federal Class I areas - additional requirements - Notice to EPA, as in effect on March 1, 1996, is herein incorporated by reference.

- (5) Secondary emissions. Subpart 40 CFR 52.21 (b)(18) is changed to read:

Emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

- (a) Emissions from ships or trains coming to or from the new or modified stationary source; and
 - (b) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.
- (6) Significant. The definition of "significant" in 40 CFR 52.21 (b)(23) is changed to exclude from the list of pollutants which may trigger PSD review any pollutant listed under FCAA §112.

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), §173-400-141, filed 9/13/96, effective 10/14/96; 93-18-007 (Order 93-03), §173-400-141, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-141, filed 2/19/91, effective 3/22/91.]

173-400-151 RETROFIT REQUIREMENTS FOR VISIBILITY PROTECTION.

- (1) Determination of best available retrofit technology (BART). Ecology shall identify and analyze each source which may reasonably be anticipated to cause or contribute to impairment of visibility in any mandatory Class I area in Washington and any adjacent state and to determine BART for the contaminant of concern and those additional air pollution control technologies that are to be required to reduce impairment from the source.
- (2) Initially defined BART. The owner(s) or operator(s) of any source(s) to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART for each contaminant contributing to visibility impairment that is emitted at more than 250 tons per year. Each source for which BART is required must install and operate BART as expeditiously as possible, but in no case later than five years after the conditions are included in a regulatory order.
- (3) Future definitions of BART. The owner(s) or operator(s) of any source(s) to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART as new technology becomes available for a contaminant if:
 - (a) The source emits more than 250 tons per year of the contaminant; and,
 - (b) The controls representing BART have not previously been required in this section.

- (4) Appeal. Any source owner or operator required by this section to install, operate, and maintain BART, may apply to the EPA administrator for an exception from that requirement pursuant to 40 CFR 51.303.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-151, filed 2/19/91, effective 3/22/91.]

173-400-161 COMPLIANCE SCHEDULES.

- (1) Issuance. Whenever a source is found to be in violation of an emission standard or other provision of this chapter, ecology or the authority may issue a regulatory order requiring that the source be brought into compliance within a specified time. The order shall contain a schedule for installation, with intermediate benchmark dates and a final completion date, and shall constitute a compliance schedule. Requirements for public involvement (WAC 173-400-171) must be met.
- (2) Federal action. A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included with a regulatory order are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan.
- (3) Penalties for delayed compliance. Sources on a compliance schedule but not meeting emissions standards may be subject to penalties as provided in the Federal Clean Air Act.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-161, filed 2/19/91, effective 3/22/91.]

173-400-171 PUBLIC INVOLVEMENT.

- (1) Applicability. Ecology or the authority shall provide public notice prior to the approval or denial of any of the following types of applications or other actions:
 - (a) Notice of construction application for any new or modified source or emissions unit, if a significant net increase in emissions of any pollutant regulated by state or federal law would result; or
 - (b) Any application or other proposed action for which a public hearing is required by PSD rules; or
 - (c) Any order to determine RACT; or
 - (d) An order to establish a compliance schedule or a variance; or
 - (e) The establishment or disestablishment of a nonattainment area, or the changing of the boundaries thereof; or

- (f) An order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or
 - (g) An order to authorize a bubble; or
 - (h) Notice of construction application or regulatory order used to establish a creditable emission reduction;
 - (i) An order issued under WAC 173-400-091 which establishes limitations on a source's potential to emit; or
 - (j) Any application or other proposed action made pursuant to this chapter in which there is a substantial public interest according to the discretion of ecology or the authority.
- (2) Public notice. Public notice shall be made only after all information required by ecology or the authority has been submitted and after applicable preliminary determinations, if any, have been made. The cost of providing public notice shall be borne by the applicant or other initiator of the action. Public notice shall include:
- (a) Availability for public inspection in at least one location near the proposed project, of the nonproprietary information submitted by the applicant and of any applicable preliminary determinations, including analyses of the effect(s) on air quality.
 - (b) Publication in a newspaper of general circulation in the area of the proposed project of notice:
 - (i) Giving a brief description of the proposal;
 - (ii) Advising of the location of the documents made available for public inspection;
 - (iii) Advising of a thirty-day period for submitting written comment to ecology or the authority;
 - (iv) Advising that a public hearing may be held if ecology or the authority determines within a thirty-day period that significant public interest exists.
 - (c) A copy of the notice will be sent to the EPA regional administrator.

Public participation procedures for notice of construction applications that are processed in coordination with an application to issue or modify an operating permit shall be conducted as provided in the state operating permit rule.

- (3) Public comment. No final decision on any application or action of any of the types described in subsection (1) of this section, shall be made until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the thirty-day period for written comment published as provided above. If a public hearing is held the public comment period shall

extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

- (4) Public hearings. The applicant, any interested governmental entity, any group or any person may request a public hearing within the thirty-day period published as above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. Ecology or the authority may, in its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time(s) and place(s) as ecology or the authority deems reasonable.
- (5) Other requirements of law. Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, such procedures may be used in lieu of the provisions of this section.
- (6) Public information. Copies of notices of construction, orders, and modifications thereof which are issued hereunder shall be available for public inspection on request at ecology or the authority.

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), §173-400-171, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), §173-400-171, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-171, filed 2/19/91, effective 3/22/91.]

173-400-180 VARIANCE.

Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to ecology for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

- (1) Jurisdiction. Sources in any area over which a local air pollution control authority has jurisdiction shall make application to that authority rather than ecology. Variances to state rules shall require ecology's approval prior to being issued by an authority. Ecology or the authority may grant such variance, but only after public involvement per WAC 173-400-171.
- (2) Full faith and credit. Variances granted in compliance with state and federal laws by an authority for sources under their jurisdiction will be accepted as variances to this regulation.
- (3) EPA concurrence. No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the USEPA.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-180, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-180, filed 2/19/91, effective 3/22/91.]

173-400-190 REQUIREMENTS FOR NONATTAINMENT AREAS.

The development of specific requirements for nonattainment areas shall include consultation with local government in the area and shall include public involvement per WAC 173-400-171.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-190, filed 2/19/91, effective 3/22/91.]

173-400-200 CREDITABLE STACK HEIGHT AND DISPERSION TECHNIQUES.

- (1) Applicability. These provisions shall apply to all sources except:
 - (a) Stacks for which construction had commenced on or before December 31, 1970, except where pollutants are being emitted from such stacks used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;
 - (b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;
 - (c) Flares;
 - (d) Open burning for agricultural or silvicultural purposes as covered under the smoke management plan;
 - (e) Residential wood combustion and open burning for which episodic restrictions apply.

These provisions shall not be construed to limit the actual stack height.

- (2) Prohibitions. No source may use dispersion techniques or excess stack height to meet ambient air quality standards or PSD increment limitations.
 - (a) Excess stack height. Excess stack height is that portion of a stack which exceeds the greater of:
 - (i) Sixty-five meters, measured from the ground level elevation at the base of the stack; or
 - (ii) $H_g = H + 1.5L$

where: H_g = "good engineering practice" (GEP) stack height, measured from the ground level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s), subject to the proviso below.

"Nearby," as used in this subsection for purposes of applying the GEP formula means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

- (b) Dispersion techniques. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include:
 - (i) The reheating of a gas stream, following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;
 - (ii) The merging of gas streams where:
 - (A) The source was originally designed and constructed with such merged gas streams, as demonstrated by the source owner(s) or operator(s).
 - (B) Such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion shall apply only to the emission limitation for the pollutant affected by such change in operation.
 - (C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and not primarily motivated by an intent to gain emissions credit for greater dispersion.
- (3) Exception. EPA, ecology, or an authority may require the use of a field study or fluid model to verify the creditable stack height for the source. This also applies to a source seeking credit after the effective date of this rule for an increase in existing stack height up to that established by the GEP formula. A fluid model or field study shall be performed according to the procedures described in the EPA Guideline for Determination of Good Engineering Practice Height (Technical Support Document of the Stack Height Regulations). The creditable height demonstrated by a fluid model or field study shall ensure that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.
 - (a) "Nearby," as used in this subsection for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be

considered to be nearby which falls within a distance of up to ten times the maximum height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

- (b) "Excessive concentration" is defined for the purpose of determining creditable stack height under this subsection and means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over an ambient air quality standard. For sources subject to PSD review (WAC 173-400-141 and 40 CFR 52.21) an excessive concentration alternatively means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over a PSD increment. The emission rate used in this demonstration shall be the emission rate specified in the state implementation plan, or in the absence of such, the actual emission rate of the source. "Significant downwash effect" means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-200, filed 2/19/91, effective 3/22/91.]

173-400-205 ADJUSTMENT FOR ATMOSPHERIC CONDITIONS.

Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant is prohibited, except as directed according to air pollution episode regulations.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-205, filed 2/19/91, effective 3/22/91.]

173-400-210 EMISSION REQUIREMENTS OF PRIOR JURISDICTIONS.

Any emissions unit that was under the jurisdiction of an authority and now is under the jurisdiction of ecology, shall meet all emission requirements that were applicable prior to transfer of jurisdiction if those standards are more stringent than the standards of this chapter or the specific chapter relating to that source.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-210, filed 2/19/91, effective 3/22/91.]

173-400-220 REQUIREMENTS FOR BOARD MEMBERS.

- (1) Public interest. A majority of the members of any ecology or authority board shall represent the public interest. A majority of the members of such boards, shall not derive any significant portion of their income from persons subject to enforcement orders pursuant to the state and federal clean air acts. An elected public official and the board shall be presumed to represent the public interest. In the event that a member derives a significant portion of his/her income from persons subject to enforcement orders, he/she shall delegate sole responsibility for administration of any part of the program which involves these persons to an assistant.
- (2) Disclosure. Each member of any ecology or authority board shall adequately disclose any potential conflict of interest in any matter prior to any action or consideration thereon, and the member shall remove themselves from participation as a board member in any action or voting on such matter.
- (3) Define significant income. For the purposes of this section, "significant portion of income" shall mean twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" shall mean fifty percent of income in the form of pension or retirement benefits from a single source other than Social Security. Income derived from employment with local or state government shall not be considered in the determination of "significant portion of income."

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-220, filed 2/19/91, effective 3/22/91.]

173-400-230 REGULATORY ACTIONS.

Ecology may take any of the following regulatory actions to enforce this chapter to meet the provisions of RCW 43.21B.300 which is incorporated by reference.

- (1) Enforcement actions by ecology-Notice to violators. At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 and 70.94.431, the department of ecology shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, ecology may require that the alleged violator or violators appear before it for the purpose of providing ecology information pertaining to the violation or the charges complained of. Every notice of violation shall offer to the alleged violator an opportunity to meet with ecology prior to the commencement of enforcement action.
- (2) Civil penalties.
 - (a) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70.94 or 70.120 RCW, or any of the rules in force under such chapters may incur a civil penalty in an amount as set

forth in RCW 70.94.431. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty as set forth by RCW 70.94.431 for each day of continued noncompliance.

- (b) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

The maximum penalty amounts established in RCW 70.94.431 may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

- (c) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.
 - (d) All penalties recovered under this section by ecology shall be paid into the state treasury and credited to the air pollution control account established in RCW 70.94.015 or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by ecology under subsection (a) of this section shall be reduced by the amount of the payment.
 - (e) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.
 - (f) Public or private entities that are recipients or potential recipients of ecology grants, whether for air quality related activities or not, may have such grants rescinded or withheld by ecology for failure to comply with provisions of this chapter.
 - (g) In addition to other penalties provided by this chapter, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.
- (3) Assurance of discontinuance. Personnel of ecology or an authority may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be

accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter or any order issued thereunder which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

- (4) Restraining orders, injunctions. Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the director, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.
- (5) Emergency episodes. Ecology may issue such orders as authorized by chapter 173-435 WAC via chapter 70.94 RCW, whenever an air pollution episode forecast is declared.
- (6) Compliance orders. Ecology may issue a compliance order in conjunction with a notice of violation. The order shall require the recipient of the notice of violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated.

[Statutory Authority: Chapter 70.94 RCW. 93-05-044 (Order 92-34), §173-400-230, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), §173-400-230, filed 2/19/91, effective 3/22/91.]

173-400-240 CRIMINAL PENALTIES.

Persons in violation of Title 173 WAC may be subject to the provisions of RCW 70.94.430.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-240, filed 2/19/91, effective 3/22/91.]

173-400-250 APPEALS.

Decisions and orders of ecology or an authority may be appealed to the pollution control hearings board pursuant to chapter 43.21B RCW and chapter 371-08 WAC.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), §173-400-250, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), §173-400-250, filed 2/19/91, effective 3/22/91.]

173-400-260 CONFLICT OF INTEREST.

All board members and officials acting or voting on decisions affecting air pollution sources, must comply with the Federal Clean Air Act, as it pertains to conflict of interest, and 40 CFR 103(d) which is incorporated by reference.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), §173-400-260, filed 2/19/91, effective 3/22/91.]